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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 KENNETH FLEMING, JOHN DOE, R.K.,
10 and T.D.,

11 Plaintiffs,

12 v.

13 THE CORPORATION OF THE PRESIDENT
14 OF THE CHURCH OF JESUS CHRIST OF
15 LATTER-DAY SAINTS, a Utah corporation
16 sole, a/d/a "MORMON CHURCH";
17 LDS SOCIAL SERVICES a/d/a LDA
18 FAMILY SERVICES, a Utah corporation,

Defendants.

NO. C04-2338 RSM

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT RE:
STATUTE OF LIMITATIONS**

**NOTE ON MOTION CALENDAR:
FRIDAY, FEBRUARY 3, 2006**

18 **I. INTRODUCTION**

19 In 1991, the Washington Legislature recognized the importance of allowing child
20 victims of sexual abuse to seek redress against the persons and entities who caused or
21 contributed to their harm when it modified RCW 4.16. 340. In doing so, the Legislature
22 explicitly recognized that a child victim of sexual abuse may be *unable* to connect his or her
23 harms to sexual abuse due to the unique and pervasive nature of the abuse. In fact, the
24 legislative findings demonstrate the Legislature's knowledge of an abuse victim's potential
25 inability to recognize the harms that flow from childhood sexual and emphasized that the

26 OPP. TO MTN FOR S.J. RE: STATUTE OF LIMITATIONS - 1
(C04-2338 RSM)
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1 limitation periods set forth in RCW 4.16.340 are to be liberally construed in favor of
 2 childhood victims of sexual abuse. The Legislature noted:

3 (1) Childhood sexual abuse is a pervasive problem that
 4 affects the safety and well being of many of our citizens.

5 (2) Childhood sexual abuse is a traumatic experience for the
 6 victim causing long-lasting damage.

7 (3) The victim of childhood sexual abuse may repress the
 8 memory of the abuse *or be unable to connect the abuse to any
 injury until after the statute of limitations has run.*

9 (4) *The victim of childhood sexual abuse may be unable to
 10 understand or make the connection between childhood sexual
 abuse and emotional harm or damage until many years after the
 11 abuse occurs.*

12 (5) *Even though victims may be aware of injuries related to
 13 the childhood sexual abuse, more serious injuries may be
 discovered many years later.*

14 (6) The legislature enacted RCW 4.16.340 to clarify the
 15 application of the discovery rule to childhood sexual abuse
 16 cases. At that time the legislature intended to reverse the
 Washington Supreme Court decision in *Tyson v. Tyson*, 107
 Wn.2d 72, 727 P.2d 226 (1986).

17 It is still the legislature's intention that *Tyson v. Tyson*,
 18 107 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the
 19 line of cases that state that discovery of any injury whatsoever
 20 caused by an act of childhood sexual abuse commences the
 21 statute of limitations. The legislature intends that the earlier
 discovery of less serious injuries should not affect the statute of
 limitations for injuries that are discovered later.

22 Laws of 1991, ch. 212, § 1 (emphasis added).

23 Additionally, the Washington Supreme Court has held that in enacting this statute the
 24 Legislature "specifically provided for a broad and generous application of the discovery rule
 25 to civil actions for injuries caused by childhood sexual abuse." *C.J.C. v. Corporation of*

Catholic Bishop of Yakima, 138 Wn.2d 699, 712, 985 P.2d 262 (1999) Despite the Legislature's mandate of a broad discovery rule and the Washington Supreme Court's clear interpretation of the statute, defendants seek to obtain dismissal of plaintiffs claims based, primarily, on defense counsel's own subjective determination that the plaintiffs "should have discovered" their causes of action more than three (3) years prior to filing the action and because the plaintiffs may have known the abuse was "wrong." Counsel's misguided assertions must be rejected because the standard for determining whether a plaintiff has filed a claim arising out of childhood sexual abuse is a subjective one. That is, the statute of limitations will start to run only after the plaintiff **actually** discovers the full extent of the harm caused by the childhood sexual abuse. As discussed in detail below, none of the plaintiffs made the requisite causal connection prior to three (3) years before this lawsuit was filed. Thus, this action was timely filed and defendants' Motion for Summary Judgment must be denied.

II. STATEMENT OF RELEVANT FACTS

Plaintiffs provided a detailed Statement of Facts in their opposition to COP's General Motions for Summary Judgment and rely on the same here.

III. ARGUMENT

A. KNOWLEDGE OF ABUSE AND EVEN KNOWLEDGE OF A PSYCHOLOGICAL CONDITION DOES NOT TRIGGER THE LIMITATIONS PERIOD. INSTEAD, THE LIMITATION PERIOD WILL ONLY START TO RUN WHEN THE PLAINTIFF SUBJECTIVELY UNDERSTANDS THAT THE ABUSE CAUSED A CERTAIN CONDITION.

Contrary to the assertions in COP's Motion, the statute of limitations for a claim based on childhood sexual abuse is triggered when the victim **subjectively** makes the connection between the abuse and his or her harm. *Hollman v. Corcoran*, 89 Wn. App. 323, 949 P.2d 386 (1997) (the limitations period is tolled until the "victim of childhood sexual abuse **in fact**"

1 discovers the causal connection between the defendant's acts and the injuries for which the
 2 claim is brought." *Id.* (emphasis added).¹

3 *Hollman* involved a claim by a victim of sexual abuse. The defendant began abusing
 4 the plaintiff in 1977 when the plaintiff was 13 years old. The sexual relationship continued
 5 well into the plaintiff's adulthood with the last sexual encounter occurring in 1987, when the
 6 plaintiff was 23 years old. During and after the period of abuse the plaintiff suffered from a
 7 variety of emotional and psychological problems and abused both drugs and alcohol. *Id.* at
 8 327. In 1989 (more than three years before plaintiff filed suit) the plaintiff entered Alcoholics
 9 Anonymous and began counseling. During his counseling, the plaintiff discussed his sexual
 10 relationship with the adult man and his resulting extreme guilt. However, during these
 11 counseling sessions, the causal relationship between the plaintiff's emotional and
 12 psychological injuries and history of abuse was never explored. *Id.* at 328. While the
 13 counselor diagnosed the plaintiff as suffering from Post-Traumatic Stress Disorder, the
 14 plaintiff never understood the causal connection between the PTSD and the sexual abuse. *Id.*
 15 Approximately four years later, in 1993, the plaintiff began counseling with a new
 16 psychologist. *Id.* During this counseling, the plaintiff began to understand that the defendant
 17 had *caused* the plaintiff's emotional and psychological problems. *Id.* In 1994, this new
 18 psychologist diagnosed the plaintiff as suffering from PTSD caused by the abuse. The
 19 plaintiff then filed suit in May of 1995, thirteen years after the plaintiff obtained the age of
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 23 ¹ The *Hollman* court explained that RCW 4.16.340(1)(b) – not RCW 4.16.340(1)(c) – contains a constructive
 24 knowledge standard. The court held that RCW 4.16.340(1)(b) addresses repressed memory claims where the
 25 victim discovers his or her injury or condition was caused by a previously "undiscovered act." *Id.* at 334. The
 court noted that "in view of the subjective nature of repressed memory claims, it is understandable that a
 constructive discovery element might be imposed in such cases." *Id.* at 334. The court made clear that RCW
 4.16.340(1)(c) "refers to the discovery of the causal connection between a known act and subsequent injuries that
 develop years later." *Id.* Given that none of the plaintiffs here assert a repressed memory claim, RCW
 4.16.340(1)(c) clearly applies.

1 majority, seven years after the abuse ended, and approximately five (5) years after his first
 2 counseling sessions occurred. *Id.* at 330.

3 After the trial, the court granted the defendant's motion for a judgment as a matter of
 4 law. In dismissing the plaintiff's claims, the trial court held that RCW 4.16.340(1)(c) contains
 5 a "constructive discovery/due diligence requirement" and that the plaintiff, as a matter of law,
 6 should have discovered the causal connection between his abuse and claimed injuries more
 7 than three years before commencing suit. *Id.* at 334. The Court of Appeals reversed, holding
 8 that the trial court erred in applying a constructive discovery standard. *Id.* The court held that
 9 under RCW 4.16.340(1)(c), the limitations period is tolled until the "victim of childhood
 10 sexual abuse *in fact* discovers the causal connection between the defendant's acts and the
 11 injuries for which the claim is brought." *Id.* (emphasis added). Based on this standard, the
 12 court reinstated the plaintiff's claim on the basis that the plaintiff had presented sufficient
 13 evidence from which a jury could infer that the plaintiff did not have *actual knowledge* of the
 14 causal connection until he began seeing the new psychologist a year before the action was
 15 filed. *Id.* at 334.²

16 COP also intimates that RCW 4.16.340(c) applies only if a victim of childhood sexual
 17 abuse "*represses* the memory of the abuse" or is '*unable*' to connect the abuse' to 'serious
 18 injury' until after the statute of limitations has expired." COP cites two overruled decisions,
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20 ² Despite the clear ruling in *Hollman*, throughout the motion, defendants imply that a constructive
 21 knowledge standard applies to claims brought under RCW 4.16.340(1)(c). This is, simply, wrong under
 22 Washington law. In *Oostra v. Holstine*, 88 Wn. App. 536, 937 P.2d 195 (1997), the Court approved a jury
 23 instruction which contained the constructive ("know or should have known") standard; however, the court did
 24 not address whether the constructive knowledge element contained in the instruction was actually proper.
 25 Rather, the court approved the instruction in the context of rejecting the defendant's argument that RCW
 26 4.16.340 only tolled actions until the last act of sexual abuse. *Id.* at 540-43. The court held that under the plain
 language of RCW 4.16.340(1)(c) claims are tolled until the victim discovers the causal connection between the
 abuse and claimed injuries. *Id.* at 541. The court's approval of the constructive knowledge language contained in
 the jury instruction was therefore dictum. The issue was, however, directly addressed in *Hollman v. Corcoran*,
supra, which, as noted above, specifically held that an *actual knowledge* standard governs claims under RCW
 4.16.340(1)(c).

1 *Tyson v. Tyson*, 107 Wn.2d 72 (1986) and *Raymond v. Ingram*, 47 Wn. App. 781, 737 P.2d
 2 314 (1987) to support their proposition that the Legislature did not intend to allow an
 3 individual to toll the statue of limitations for decades when that individual has not suffered
 4 from repressed memory or similar disability.³ This dramatic mis-statement of the law runs
 5 counter to both the spirit and letter of Washington's child sexual abuse statute. Under RCW
 6 4.16.340(1)(c), claims arising from childhood sexual abuse are tolled until the victim *actually*
 7 discovers the causal connection between the claimed injuries and the childhood sexual abuse.⁴

8 **B. THE DISCOVERY OF LESS SERIOUS INJURIES DOES NOT COMMENCE THE LIMITATIONS
 9 PERIOD – CLAIMS ARE TOLLED UNTIL THE VICTIM UNDERSTANDS THE CAUSAL
 10 CONNECTION BETWEEN THE ABUSE AND THE "FULL EXTENT" OF THE RESULTING
 11 HARM.**

12 Despite defendants' assertions to the contrary, under RCW 4.16.340(1)(c), the
 13 discovery of less serious injuries does not commence the limitations period for actions based
 14 on childhood sexual abuse. *Cloud ex rel. Cloud v. Summers*, 98 Wn. App. 724, 991 P.2d
 15 1169 (1999). The legislative findings to RCW 4.16.340 specifically recognize that "even
 16 though victims may be aware of injuries related to childhood sexual abuse, more serious
 17 injuries may develop later." Laws of 1991, ch. 212, § 1. For this reason, the specific
 18 Legislative intent was that "the earlier discovery of less serious injuries should not affect the
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20 ³ COP indicates that the "Legislature disagreed" with these two cases. This is a colossal understatement. In
 21 direct response to these two decisions, the Legislature enacted new legislation specifically aimed at overruling
 22 these two decisions. In doing so, the Legislature stated:

23 It is still the legislature's intention that *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986)
 24 be reversed, as well as the line of cases that state that discovery of any injury whatsoever
 25 caused by an act of childhood sexual abuse commenced the statute of limitations. The
 26 legislature intends that the earlier discovery of less serious injuries should not affect the
 27 statute of limitations for injuries that are discovered later.

28 *Laws of 1991, Ch. 212 § 1 (emphasis added).*

29 ⁴ RCW 4.16.340(1)(c) provides that claims arising from childhood sexual abuse may be commenced within
 30 "three years of the time the victim discovered that the act *caused* the injury for which the claim is brought."
 31 (emphasis added). RCW 4.16.340(1)(c) does not contain a constructive knowledge standard.

1 statute of limitations for injuries that are discovered later," (*Id.*) which was affirmed by the
 2 Court of Appeals in *Cloud v. Summers, supra*.

3 In *Cloud*, the victim and his parents brought claims against the Seattle School District
 4 and the estate of his former teacher for the sexual abuse suffered by the plaintiff for several
 5 years, beginning in 1983, when the plaintiff was thirteen. Once a good student and talented
 6 athlete, plaintiff began suffering from severe emotional and psychological difficulties in 1992
 7 and, in January of 1994, shot and killed Summers, the sexually abusive teacher. The victim's
 8 psychiatrist concluded that his mental illness was caused by the sexual abuse. The victim and
 9 his parents then filed claims against the estate and the school district in state court in January
 10 of 1996. The trial court granted summary judgment for the school district, ruling *inter alia*
 11 that the claims were barred by the statute of limitations. *Id.* at 729.

12 On appeal, the plaintiffs argued that the statute of limitations did not bar their claims
 13 against the school district. The Court of Appeals agreed, holding that the "undisputed"
 14 evidence in the record reflects that Darrell Cloud did not connect his mental illness with
 15 Summers' abuse before January 31, 1994 . . . and that the statute of limitations against the
 16 school district did not expire until January 31, 1997." *Id.* at 735. The court held that even
 17 though the plaintiff was aware of the abuse all along, and was aware of **some** injuries caused
 18 by the abuse, there was no evidence in the record that he connected the sexual abuse with the
 19 *full extent of his mental illness* until he shot his abuser in January of 1994. The Court stated:
 20

21 [T]he victim may know, as Darrell knew, that he or she was
 22 molested, and may even know that some injury resulted, but
 23 may not know the full extent of the injury or that the abuse
 24 might have been prevented if persons having a special
 25 relationship with the child had not breached a duty to protect the
 26 child from abuse. *Indeed, as our legislature has found,*
childhood sexual abuse, by its very nature, may render the
victim unable to understand or make the connection between the
childhood abuse and the full extent of the resulting emotional
harm until many years later.

1 *Id.* at 734-735 (emphasis added).

2 **C. PLAINTIFFS DO NOT NEED TO DEMONSTRATE THAT THEY WERE SUFFERING FROM A**

3 **"DISABILITY" TO TOLL THE STATUTE OF LIMITATIONS.**

4 Contrary to COP's assertions, a mental illness or actual disability is not a prerequisite

5 to the tolling of the statute of limitations for a claim of childhood sexual abuse.⁵ Defendants

6 can point to no case in Washington that supports such a draconian standard. Admittedly, the

7 Court in *Cloud* determined that the plaintiff was suffering with a mental illness and, in the

8 course of the opinion, the Court used the term "disability." However, in doing so, the court

9 used the term simply to explain its decision but did not imply that an actual "mental illness" or

10 "disability" was a prerequisite to tolling the statute. *Cloud*, 98 Wn.App. at 735. Instead, the

11 statute of limitations will be tolled if the victim has been *unable* to connect his or her

12 psychological harms to the abuse due to a myriad of reasons, including the fact that child

13 victims of sexual abuse are traumatized by the event and, "forgot" the events, blamed

14 themselves for the abuse, or did not seek assistance (e.g., counseling) in understanding the

15 nature of the assault.

16 **D. PLAINTIFFS HAVE SUBMITTED EVIDENCE WHICH CREATES A QUESTION OF FACT ON**

17 **THE ISSUE OF WHEN PLAINTIFFS MADE THE CAUSAL CONNECTION BETWEEN**

18 **LOHOLT'S ABUSE AND THEIR EMOTIONAL AND PSYCHOLOGICAL DAMAGE.**

19 **1. JOHN DOE.**

20 Stuart Greenberg has interviewed and evaluated John Doe. He has unequivocally

21 opined that John Doe was unable to recognize the impact of the abuse and will, in all

22 likelihood, be unable to understand the impact until he has years of therapy.⁶ Dr. Stuart

23 Greenberg, Ph.D. interviewed and evaluated John Doe on August 25, 2005 and October 10,

24 ⁵ Regardless, as opined by Dr. Conte and Dr. Greenberg, both John Doe and R.K. suffer from significant

25 symptoms associated with mental illness. *Declaration of Jon Conte Re: R.K.* ¶¶11, 12, 14, 17 and 18;
Declaration of Stuart A. Greenberg, ¶8(a) – (d).

26 ⁶ *Greenberg Decl.*, ¶8(d).

1 2005.⁷ He noted that John Doe suffers depression, experiences poor appetite, loss of interest,
 2 feelings of guilt, motor retardation, sleep disturbances, fatigue and weight loss. John Doe self
 3 reported that his anxiety level is at times disabling and Dr. Greenberg noted that John Doe's
 4 presentation was complicated by his admitted use of elicit substances. John Doe currently
 5 experiences extreme anxiety, feels hopeless and depressed and has a high suicide potential.⁸

6 It is Dr. Greenberg's opinion that John Doe has incurred an almost "totally disabling
 7 and life threatening level of psychological damage. He is gravely psychologically disabled
 8 and has been terribly harmed by the events he reports."⁹ Dr. Greenberg noted that John Doe
 9 was so dysfunctional he was unable to complete most of the standardized testing.¹⁰ In
 10 summary, Dr. Greenberg opined that John Doe's psycho-pathological condition and his highly
 11 dysfunctional current state and life long status renders him substantially unable to understand,
 12 comprehend and appreciate how grossly dysfunctional he is, nor is he able to adequately
 13 understand what roles the various traumas in his life have played in the development of his
 14 dysfunctionality. He is likely to need at least some level of supportive therapy for most of the
 15 remainder of his life for him to be able to function adequately, to understand himself, to
 16 appreciate his place in the world, and to understand his relationship with other human
 17 beings.¹¹ Dr. Greenberg noted that John Doe is incapable of adequately recognizing the
 18 impact of sexual abuse and he is unable to adequately comprehend the role that had played in
 19 his life. Dr. Greenberg summarizes that John Doe is simply so dysfunctional that he does not
 20 meaningfully or reliably understand himself, who he is and why he feels and acts as he does.¹²

22 ⁷ *Greenberg Decl.*, ¶5(a).

23 ⁸ *Greenberg Decl.*, ¶¶5 (c), (d) and (i).

24 ⁹ *Greenberg Decl.*, ¶8(a).

25 ¹⁰ *Greenberg Decl.*, ¶8(c).

¹¹ *Greenberg Decl.*, ¶8(a).

26 ¹² *Greenberg Decl.*, ¶8(d).

1 2. R.K.

2 Dr. Jon Conte interviewed, tested and evaluated R.K. on August 31, 2005.¹³ He
 3 diagnosed R.K. with Post Traumatic Stress Disorder, based on his self report and test results.
 4 Dr. Conte noted that R.K. currently reports significant levels of post traumatic stress,
 5 including re-experiencing, avoidance and hyper arousal symptoms. Dr. Conte believes he
 6 suffers from these symptoms as a result of the childhood sexual abuse.¹⁴ Dr. Conte also
 7 pointed out that R.K. has led a symptomatically distressed and conflict ridden life and lacks
 8 the psychological mindedness or capacity to understand that his symptoms are, at least in
 9 large part, the result of sexual abuse during his youth.¹⁵ As of the date that Dr. Conte
 10 evaluated him during the pendency of this lawsuit, R.K. was not able to appreciate the
 11 connections between his abuse and his symptoms and Dr. Conte did not believe he would be
 12 able to appreciate these connections until he has had years of therapy.¹⁶

13 Dr. Conte drew the distinction that knowing the fact that one has been abused is not
 14 the same thing as understanding how the experience has harmed you. Likewise, knowing that
 15 the abuse was wrong is not also the same as knowing one has been harmed. Dr. Conte opined
 16 that R.K. has limited understandings of these connections.¹⁷ Dr. Conte also noted that R.K. is
 17 unpracticed in telling his life story. He did not appear to be particularly psychologically
 18 minded. Importantly, Dr. Conte noted that R.K. had never had counseling for the sexual
 19 abuse he suffered which was necessary for him to understand how the abuse had impacted his
 20 life. It is Dr. Conte's opinion that R.K. has limited understanding of how the sexual abuse in
 21 his life has impacted him.¹⁸

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¹³ *Conte Decl. re: R.K., ¶9*

23 ¹⁴ *Conte Decl. re: R.K., ¶17.*

24 ¹⁵ *Conte Decl. re: R.K., ¶11, 12.*

25 ¹⁶ *Conte Decl. re: R.K., ¶18.*

26 ¹⁷ *Conte Decl. re: R.K., ¶18.*

¹⁸ *Conte Decl. re: R.K., ¶10.*

1 Dr. Conte also opined that R.K. is a man with limited understandings of his own
 2 behavior, his origins and why he behaves as he does. Dr. Conte believes that R.K. does not
 3 make the connections between his behavior, the abuse and the other events in his life which
 4 are associated with the behavior.¹⁹ Dr. Conte points out that the capacity to make a
 5 connection between an event such as abuse and its harms requires a complex mental process.
 6 It is a process which is particularly difficult for adults abused in childhood because of the very
 7 nature of child development. Children typically put painful experiences out of mind or
 8 awareness and are extremely adept at defending against painful experiences by denial and
 9 suppression.²⁰

10 **3. T.D.**

11 Dr. Conte notes that psychotherapy of traumatized individuals inherently involves
 12 assisting the traumatized individual understand the connection between the trauma and the
 13 various harms which result from the trauma. This complex process is central to therapy.²¹
 14 T.D. was evaluated by Dr. Conte on August 26, 2005. At that time Dr. Conte noted that T.D.
 15 was isolated, introverted and not psychologically aware. He gave the impression of a man
 16 who does not want to think that he has been harmed by the abuse. Dr. Conte opined that the
 17 personality of T.D. makes him unlikely and unable to understand the harm which the abuse
 18 has caused him.²²

19 In short, as of the date of his evaluation, it was Dr. Conte's opinion that T.D. did not
 20 comprehend the full extent of his injuries or their casual connection to the abuse. Indeed, it
 21 was his opinion he had no understanding prior to filing of the lawsuit that any of his problems
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23 ¹⁹ *Conte Decl. re: R.K.*, ¶11.

24 ²⁰ *Conte Decl. re: R.K.*, ¶12.

25 ²¹ *Conte Decl. re: T.D.* ¶8. It should be noted that T.D. has never received any therapy for his sexual abuse, or
 for any other reason, so has not undergone this "connection" process.

26 ²² *Conte Decl. re: T.D.* ¶15.

were related to the abuse.²³ It is Dr. Conte's opinion that since learning that other children were abused during the last three years T.D. has begun to process what happened to him. He now wonders how the abuse impacted his life.²⁴ Dr. Conte also opines that T.D. is a person who has not processed his emotions and does not have easy access to his emotions.²⁵ Because of his tendency not to explore his feelings surrounding the abuse, T.D. has just begun to comprehend the effects of the abuse during the process of this lawsuit.²⁶

4. DEFENDANTS PROVIDE NO EVIDENCE PLAINTIFFS UNDERSTOOD THE CONNECTION BETWEEN THE ABUSE AND THEIR SYMPTOMS WITHIN 3 YEARS OF FILING THIS LAWSUIT.

In contrast to plaintiffs, defendants have not submitted *any* expert testimony challenging Dr. Conte or Dr. Greenberg's opinions.²⁷ Rather, defendants assert, without expert authority, that the plaintiffs should have understood the causal connection between Loholt's abuse and their psychological injuries because each one of them (1) never forgot the abuse, (2) knew they were victims, (3) believed Loholt's conduct was "wrong" and (4) because they spoke of the abuse to family members and friends. The fact the plaintiffs always knew they were abused and knew that Loholt's conduct was "wrong" is irrelevant to whether they understood the full extent of their psychological injuries. *See, Cloud*, 98 Wn. App. 724, 991 P.2d 1169 (1999); *Hollman*, 89 Wn. App. 323, 949 P.2d 386 (1997); *Oostra*, 88 Wn. App. 536, 937 P.2d 195 (1991). As recognized by the court in *Cloud*, a child's

²³ *Conte Decl. re: T.D.* ¶15.

²⁴ *Conte Decl. re: T.D.* ¶17.

²⁵ *Conte Decl. re: T.D.* ¶18 – 20.

²⁶ *Conte Decl. re: T.D.* ¶21.

²⁷ The only evidence relating to when the plaintiffs, and each of them, made the connection between the abuse they suffered and the consequent harms are the declarations and reports of Dr. Stuart Greenberg and Dr. Jon Conte. These forensic experts have unequivocally stated that the plaintiffs, and each one of them, had not made the causal connection between the full extent of their injuries and the abuse before filing this suit. Defense counsel's subjective determination that the plaintiffs gained the requisite knowledge is not admissible evidence – it is argument.